

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

CARLOS ALVAREZ CHICAS, ALONSO  
VILLATORO, MISAEL ALEXANDER MARTINEZ  
CASTRO, ANGEL MARTINEZ, EDWIN ULLOA  
MOREIRA and MATEO UMANA individually and on  
behalf of all others similarly situated,

Plaintiffs,

-against-

KELCO CONSTRUCTION, INC., KELCO  
LANDSCAPING, INC., E.L.M. GENERAL  
CONSTRUCTION CORP. D/B/A KELLY'S CREW,  
JOHN KELLY and JOSEPH PROVENZANO,

Defendants.

Case No. 1:21-CV-09014  
(PAE)(SDA)

**DECLARATION OF MARIO RODRIGUEZ IN SUPPORT OF  
DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION FOR  
CONDITIONAL CERTIFICATION PURSUANT TO 29 U.S.C. § 216(b)**

I, Mario Rodriguez, pursuant to 28 U.S. C. § 1746, declare as follows:

1. I submit this declaration in support of Defendants' Opposition to Plaintiffs' Motion for Conditional Certification pursuant to 29 U.S.C. § 216(b). I am personally familiar with the facts set forth below and submit this declaration based on my personal knowledge.

2. I currently work for Kelco Construction as a driver. I have been working for Kelco Construction since approximately 1990.

3. My duties as a truck driver are to transport sand, concrete, equipment, and machinery. The locations to which I transport these materials vary based on the job, such as to Central Park, Red Hook, and Pier 97. I drive trailers, dump trucks, and roll-off trucks, which require me to have a commercial driver's license.

4. I am a union member of Local 282 Teamsters.

5. I arrive at the 25 Newton Place, Hauppauge, New York (“Hauppauge facility”) at various times in the morning to pick up the company vehicle. I generally arrive at the Hauppauge facility at 4:30 a.m. I do not report to a park-and-ride location, and I did not give rides to any other workers.

6. I drove to work at various locations, such as Massachusetts, Pennsylvania, and Connecticut to pick up the materials that I transport. I drive alone at all times.

7. I am currently paid an hourly wage of \$35.00. The union pays me at \$41.00 per hour.

8. On a normal basis, there were three (3) other similarly situated drivers like me.

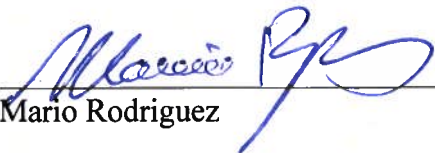
9. My primary language is Spanish. On January 24, 2023, Luis Lopez, CCI verbally translated this declaration to me in Spanish. I fully understand the contents of this declaration in my primary language.

10. This declaration was prepared by counsel for Defendants in the action based on an interview in which I voluntarily participated. I was advised that I could end the interview at any time. I have also been told by counsel for the Defendants that I should sign this declaration if I want to and if everything within it is true and correct to the best of my knowledge, information, and belief. I have been given a full opportunity to review this declaration carefully and freely and make any corrections and additions of any kind.

**[SPACE LEFT INTENTIONALLY BLANK]**

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Date: January 24, 2023

  
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Mario Rodriguez